

APR 17 2006

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

RAVINDRA PRAKASH SHARMA,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75667

Agency No. A78-643-372

MEMORANDUM^{*}

RALESH PRAKASH CHAUBE,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75668

Agency No. A78-643-113

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted April 13, 2006**

Before: SILVERMAN, McKEOWN and PAEZ, Circuit Judges.

In these consolidated petitions, Ravindra Prakash Sharma and his brother Ralesh Prakash Chaube, natives and citizens of Fiji, seek review of the Board of Immigration Appeals' ("BIA") orders dismissing their appeal from an immigration judge's order denying their applications for asylum and withholding of removal. To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review for substantial evidence, *see Gormley v. Ashcroft*, 364 F.3d 1172, 1176 (9th Cir. 2004), and we dismiss in part and deny in part the petitions for review.

We lack jurisdiction to review the agency's factual determination that petitioners failed to demonstrate they filed their applications for asylum within one year of their last entry into the United States or that extraordinary circumstances excused their late filings. *See* 8 U.S.C. § 1158(a)(3); *Ramadan v. Gonzales*, 427 F.3d 1218, 1221-22 (9th Cir. 2005) (retaining jurisdiction to review

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

determinations regarding the one-year asylum bar only “insofar as a petition for review raises constitutional claims or questions of law”).

Although petitioners present evidence of harassment and discrimination, the record would not compel a reasonable fact finder to conclude that there is a clear probability of persecution upon return to Fiji. *See Faruk v. Ashcroft*, 378 F.3d 940, 944 (9th Cir. 2004). Accordingly, the BIA’s denial of withholding of removal is supported by substantial evidence. *See Ramadan v. Gonzales*, 427 F.3d at 1223.

PETITIONS FOR REVIEW DISMISSED in part; DENIED in part.